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CRIMINAL PROCEDURE

SUPPLEMENTARY CASEBOOK

FALL 2000

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CRIMINAL PROCEDURE
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SYLLABUS

MICHAEL CODE & JONATHAN DAWE

REQUIRED READING MATERIAL:

(i) Tremeear's 2001 Criminal Code (or any other current Criminal Code)
(ii) Delisle & Stuart, Learning Canadian Criminal Procedure, 5th Ed. 1998, Carswell
(iii) Code & Dawe, Supplementary Casebook, Fall 2000

Class 1

I. JURISDICTION

(i) Courts and Classification of Offences

- Criminal Code, Ss.468-473 and s.785
- Delisle & Stuart: pp.1-7
- Code Supplement:
  Mewett, Introduction to the Criminal Process

(ii) Time Limitations: Trial within a reasonable time

- Criminal Code, s.786
- Charter, s.11(b) and s.7
- Delisle & Stuart: pp.8-40
- Code Supplement:
  Smith v. The Queen (1989), 73 C.R. (3d) 1 (S.C.C.)
  Askov et al. v. The Queen (1990), 59 C.C.C. (3d) 449 (S.C.C.)
  Collins and Pelfrey v. The Queen (1995), 99 C.C.C. (3d) 385 (S.C.C.)

Class 2

I. **JURISDICTION** (cont'd)

(iii) Territorial jurisdiction, jurisdiction over the person and offence, loss of jurisdiction

- Criminal Code, s.7, ss.468-470, ss.475-479, s.485, s. 537(1) j & k, s.544, and s.650
- Charter, s.7 and s.14
- Delisle & Stuart, pp.41-48
- Code Supplement:
  R.v. McMorris and Francis (1971), 4 C.C.C. (2d) 268 (Ont.Dist.Ct.)
  R. v. Liesmer and MacDougall, April 19, 1990 (Ont.Prov. Ct.)
  Doyle v. The Queen (1976), 29 C.C.C. (2d) 177 (S.C.C.)
  R. v. Krannenburg (1980), 51 C.C.C. (2d) 205 (S.C.C.)
  R.v. Thompson (1980), 51 C.C.C. (2d) 212 (S.C.C.)
  Barrow v. The Queen (1987), 38 C.C.C. (3d) 193 (S.C.C.)
  Cote & Vezina v. The Queen (1986), 23 C.C.C. (3d) 481 (S.C.C.)
  R. v. Cloutier (1988), 43 C.C.C. (3d) 35 (Ont.C.A.)
  Sullivan v. The Queen (1986), 27 C.R.R. 1 (Ct.Mar.App.Ct.)
  Tran v. The Queen (1994), 92 C.C.C. (3d) 218 (S.C.C.)
  Phillips & Parry v. The Queen (1997) 113 C.C.C. (3d) 481 (S.C.C.)

(iv) Change of Venue

- Criminal Code, s.599
- Delisle & Stuart: pp. 49-53
- Code Supplement:
  R. v. Talbot (1977), 38 C.C.C. (2d) 555 (Ont.H.C.J.)

Classes 3 and 4

II. **SEARCH AND SEIZURE**

- Criminal Code, s.117.02, s.487, s.487.1, s.487.11, s.489
- Charter, s.8
- Delisle & Stuart, pp.57-62, 70-80 and 128-176
- Code Supplement:
  Re Zevallos and The Queen (1987), 37 C.C.C. (3d) 79 (Ont.C.A.)
  Collins v. The Queen (1987), 33 C.C.C. (3d) 1 (S.C.C.)
  Re Den Hoy Gin (1965), 47 C.R. 89 (Ont.C.A.)
  R. v. Sismey (1990), 55 C.C.C. (3d) 281 (Ont.C.A)
  Bisson et al v. A.G. Canada (1994), 94 C.C.C. (3d) 94 (S.C.C.)
  Descoteaux et al v. Mierzwinski and A-G
  of Quebec. et al. (1983), 70 C.C.C. (2d) 385 (S.C.C.)

Baron v. The Queen (1993), 18 C.R. (4th) 374 (S.C.C.)
Simmons v. The Queen (1988), 45 C.C.C. (3d) 296 (S.C.C.)
R. v. Debot (1986), 30 C.C.C.(3d) 207 (Ont.C.A.);
aff'd 52 C.C.C. (3d) 193 (S.C.C.)
R. v. Grant (1993), 84 C.C.C. (3d) 173 (S.C.C.)
Stillman v. The Queen (1997), 113 C.C.C. (3d) 321 (S.C.C.)
Caslake v. The Queen (1998), 121 C.C.C. (3d) 97 (S.C.C.)

Class 5

III. ARREST, COMPELLING APPEARANCES OF ACCUSED AND CHARGING THE ACCUSED

- Criminal Code, ss.493-514, Ss.30-31, s.528
- Charter, s.9
- Delisle & Stuart: pp. 202-251
- Code Supplement;
  Ladouceur v. The Queen (1990), 56 C.C.C. (3d) 22 (S.C.C.)
  R. v. Mellenthin (1992) 76 C.C.C. (3d) 481 (S.C.C.)
  R. v. Simpson (1993), 79 C.C.C. (3d) 482 (Ont.C.A.)
  R. v. Feeney (1997), 115 C.C.C. (3d) 129 (S.C.C.)
  R. v. Godoy (1998), 21 C.R.(5th) 205 (S.C.C.)

Class 6

IV. JUDICIAL INTERIM RELEASE

- Criminal Code, ss.515-526, s.145, Ss.766-7, Ss.679-680, s.683(5) and s.261
- Delisle & Stuart: pp. 253-278
- Code Supplement:
  R. v. Dakin, unreported, August 8, 1989 (Ont.C.A.)
  R. v. Dewsbury (1989), 50 C.C.C. (3d) 163 (Ont.H.C.J.)
  R. v. Buxbaum (1989), 70 C.R. (3d) 20 at pp.27-8 (Ont.C.A.)

Class 7

V. ELECTIONS, PRELIMINARY INQUIRY AND DISCLOSURE

- Criminal Code, ss.535-572 (Parts 18 and 19); Ss.603-5, s.625.1, s.645(5) and s.650(3)
- Charter, ss.7 and 11(d)
- Delisle & Stuart: pp. 534-566
- Code Supplement:

R. v. Hoffman, September 15, 1992 (Ont.C.A.)
R. v. Goldstein & Caicedo (1988), 42 C.C.C. (3d) 548 (Ont.C.A.)
R.v. Stewart (1988), 44 C.C.C. (3d) 109 (Ont.C.A.)
Re Cover and The Queen (1988), 44 C.C.C. (3d) 34 (Ont.H.J.C.)
R. v. Al-Amoud (1992), 10 O.R. (3d) 676 (Ont.Ct.Gen.Div.)
Stinchcombe v. The Queen (1992), 68 C.C.C. (3d) 1 (S.C.C.)
R. v. Douglas (1991), 5 O.R. (3d) 29 (Ont.C.A.); aff'd 12 O.R. (3d) 800 (S.C.C.)
Carosella v. The Queen (1997), 112 C.C.C. (3d) 289 (S.C.C.)

Class 8

VII. FORM OF THE INDICTMENT, JOINDER AND SEVERANCE

- Criminal Code, ss.574-601
- Delisle & Stuart; pp. 618-677
- Code Supplement:
  Cote & Vezina v. The Queen, supra
  R. v. Saunders, sub. nom. Rooke & Devries (1990), 56 C.C.C. (3d) 220 (S.C.C.)
  G.B. et al v. The Queen (1990), 56 C.C.C. (3d) 200 (S.C.C.)
  Clunas v. The Queen (1992), 70 C.C.C. (3d) 115 (S.C.C.)

Classes 9 and 10

VIII. PLEAS AND VERDICTS

- Criminal Code, ss.606-614 and Ss.660-662
- Charter, s.11(h)
- Delisle & Stuart: pp. 574-582 and pp. 678-751
- Code Supplement:
  Grdic v. The Queen (1985), 19 C.C.C. (3d) 289 (S.C.C.)
  Regina v. Moore (1988), 41 C.C.C. (3d) 481 (S.C.C.)

Classes 11 and 12

IX. TRIAL BY JURY

- Criminal Code, ss.626-655
- Charter, s.11(f)
- Delisle & Stuart, pp. 752-869

Class 13

X. ROLES OF DEFENCE COUNSEL AND PROSECUTOR

- Delisle & Stuart: pp. 473-533
- Code Supplement:
  Law Society of Upper Canada Rules of Professional Conduct, 1992:
  i) Rule 10, including all Commentaries
  ii) Rule 8, including all Commentaries

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